APPENDIX.

(Letterhead of)
NATIONAL LABOR RELATIONS BOARD
FOURTH REGION
1500 Bankers Securities Building
Philadelphia 7, Pa.

June 20, 1955.

PEnnypacker 5-2612

Richard L. Askew, President
Local 1291, International Longshoremen's
Association, Indp't.
413 S. Second Street
Philadelphia 47, Pa.

Registered Mail No. 778494
Return Receipt Requested

Re: Dugan & McNamara, Inc.
Case No. 4-CA-1220

Dear Sir:

The above-captioned case charging a violation under Section 8 of the National Labor Relations Act, as amended, has been carefully investigated and considered.

It does not appear that further proceedings are warranted, inasmuch as there is insufficient evidence of violations. I am, therefore, refusing to issue Complaint in this matter.

Pursuant to the National Labor Relations Board Rules and Regulations, you may obtain a review of this action by filing a request for such review with the General Counsel of the National Labor Relations Board, Washington 25, D. C.,

and a copy with me. This request must contain a complete statement setting forth the facts and reasons upon which it is based. The request should be filed within ten (10) days from the date of receipt of this letter, except that the General Counsel may, upon good cause shown, grant special permission for a longer period within which to file.

Very truly yours,

BENNET F. SCHAUFFLER,
Bennet F. Schauffler
Regional Director

cc: Theophil Kammholz, General Counsel, NLRB, Washington 25, D. C.

Dugan & McNamara, Inc., Pier 30, South Wharves, Philadelphia, Pa.

Thomas F. Mount, Esq., Rawle & Henderson, 19th Floor, Packard Bldg., Phila., Pa.

Abraham E. Freedman, Esq., 1415 Walnut St., Phila. 2, Pa.

SEP 30 195
HAROLD B. WILLEY, C

IN THE

Supreme Court of the United States

No. 289.

October Term, 1955.

INTERNATIONAL LONGSHOREMEN'S ASSOCIATION LOCAL UNION NO. 1291, JAMES T. MOOCK, Atlantic Coast District Vice-President of the International Longshoremen's Association, CLIFFORD CARTER, International Organizer for the International Longshoremen's Association, RICHARD ASKEW, President of Local Union No. 1291, and ALEXANDER TALMADGE, PAUL JOHNSON, JR., JOHN J. SMITH, JR. and MARTIN WELSH, Delegates of Local No. 1291, and Approximately One Hundred and Sixty Longshoremen Who Are Employed by Dugan & McNamara, Inc., Contracting Stevedores,

Petitioners,

v.

PHILADELPHIA MARINE TRADE ASSOCIATION; THE NATIONAL SUGAR REFINING COMPANY and DUGAN & McNAMARA, INC.,

Respondents.

REPLY BRIEF TO BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI.

ABRAHAM E. FREEDMAN,
CHARLES LAKATOS,
AVRAM G. ADLER,
FREEDMAN, LANDY AND LORRY,
1415 Walnut Street,
Philadelphia 2, Penna.,
Counsel for Petitioners.

International, 256 Chestnut St., Phila. 6, Pa.

Petitioner's Reply Memorandum Contra Respondent's Brief in Opposition to Petition for Writ of Certiorari.

The main thrust of respondent's opposition to the petition for a writ of certiorari is that the decree of the Court below is technically interlocutory in nature, and, that therefore this Court has no jurisdiction to consider the issue. In support of this position respondent cites *Montgomery Building and Construction Trades Council v. Ledbetter Construction Co., Inc.*, 344 U. S. 178. This Court never intended the broad construction in that case which respondents have placed upon it.

This Court made it clear that the true test is not whether the judgment is interlocutory, but rather whether it is final in the sense that all the issues have been finally decided. As this Court said in *Richfield Oil Co. v. State Board of Equalization*, 329 U. S. 69, "the question is whether there is nothing more to be decided—that there has been an effective determination of the litigation". Thus in *Radio Station WOW, Inc. v. Johnson*, 326 U. S. 120, this Court considered a judgment final when it directed "immediate delivery of physical property" (p. 124).

The instant case presented two issues in the Court below: (a) Did the Court below have jurisdiction, and, (b) did the contract require the alleged dispute to be submitted to arbitration. *Both of these questions were decided as a matter of law* on the basis of the issue raised by the respondent and the written contract. The decisions of the Courts below on these sole issues is final and not subject to any further review. The opinions of the Courts below clearly show that the decisions on both issues are not subject to being reopened and cannot be influenced or affected by any further evidence. As stated the decisions were rendered as a matter of law and not on the basis of any disputed evidence. In fact, pursuant to those decisions the

Courts below compelled petitioners to go to arbitration and the decision of the arbitrator has been rendered That decision has and will require compliance by petitioners unless this Court reverses the decision of the Court below.

There is nothing more which is required to be done or which can be done that can conceivably change or in any way influence the decision of the Court below. A mere reading of the opinions of the lower Courts, both the Common Pleas Court and the Supreme Court of Pennsylvania, demonstrate conclusively that all the issues in the case have been finally decided. *In fact, so final and permanent is the decision of the Court below, that 39 men, who had been entitled to jobs, and who had been working for respondents for as much as twenty years, are now permanently out of work as a direct result of that decision, and the elimination of their jobs is not subject to further review unless this Court grants the petition for a writ of certiorari.* This loss of jobs is at least as "final" and compelling as the issue concerned in the *Radio Station WOW* case involving the "immediate delivery of physical property".

The judgment of the Court below is as "final" as it is possible for any judgment to be. The issue raised by that judgment is of extraordinary importance and it affects virtually every segment and group in the entire country. This Court has not passed upon that issue, and, until it does, substantial rights will continue to be lost and great injustice inflicted upon employees generally around the country.

Respectfully submitted,

ABRAHAM E. FREEDMAN,
CHARLES LAKATOS,
AVRAM G. ADLER,
FREEDMAN, LANDY AND LORRY,
Attorneys for Petitioner.